

HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.26233 of 2006

Dated:26.02.2007

Between:

Dondapati Parvatamma.

...Petitioner.

and

The District Collector, Prakasam District, and others.

...Respondents

HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION No.26233 of 2006

ORDER:

The petitioner was appointed as Anganwadi Worker, initially, on 01.01.2002, by the District Collector, Prakasam at Ongole, for the village Karumanupalli, Taralapadu Mandal. Thereafter, she was removed from service, through proceedings, dated 11.08.2002, by the Project Director, District Women & Child Development Agency, Ongole, the 2nd respondent herein, on the ground that the certificate of educational qualifications produced by her, is not genuine. Subsequently, the petitioner passed

10th Class in May, 2003. By this time, the procedure for appointment of Anganwadi Workers was changed through G.O.Ms.No.20, dated 10.04.2003. The Mothers Committee became the appointing authority. The petitioner submitted her application to the Mothers Committee of the village and she was appointed on 19.08.2003. The 3rd respondent issued memo, dated 09.08.2004, stating, *inter alia*, that the honorarium to the petitioner would not be paid, in view of the fact

that she has been removed from service. The petitioner challenges the same, on the ground that she was not issued any show cause notice, before she was removed, and that the appointing authority did not pass any order of removal.

On behalf of respondents 1 to 3, a counter-affidavit is filed and relevant documents are enclosed. It is stated that a show cause notice, dated 05.08.2004, on the basis of a resolution passed by the Mothers Committee, was issued, to the petitioner, calling upon her to explain as to why she shall not be removed, in view of the pendency of a criminal case against her. It is stated that since the petitioner refused to receive the notice, the Committee passed a resolution, dated 08.08.2004, removing her and the necessary order was passed on 09.08.2004. It is stated that the 4th respondent has been appointed in the place of the petitioner.

Heard learned counsel for the petitioner, learned Government Pleader for Women and Child Welfare and learned counsel for the 4th respondent.

It is not in dispute that the petitioner was appointed on 19.08.2003 by the Mothers Committee, on the basis of her qualification secured in May, 2003. If the appointing authority is of the view that the petitioner cannot be continued to be in service, it ought to have issued notice her, pointing out the reasons. A copy of the show cause notice, dated 05.08.2004, is placed before this Court. In that, the petitioner was required to explain as to why she shall not be removed from service, in view of the pendency of a criminal case. The petitioner has categorically stated that she has not been served with any notice at all. The respondents contend that the Committee resolved on 08.08.2004 to remove the petitioner, since she has not submitted any explanation and that the resultant order was passed on the next day i.e. 09.08.2004. The petitioner denies the service of this order also.

Even if it is assumed that the Mothers Committee, the appointing authority, passed an order of removal against the petitioner, it can be sustained, if only it was preceded by any show cause notice. Though it is stated that a show cause notice, dated 05.08.2004, was issued to the petitioner, it is alleged that the petitioner refused to receive the same. The known method of serving a show cause notice, that too, which entails in serious consequences, is by registered post with acknowledgement due. For the reasons best known to them, such a procedure was not chosen. Further, the gap between the date of show cause notice and the resolution to remove the petitioner is hardly three days. The whole exercise of issuance of show cause notice is reduced to an empty formality.

For the foregoing reasons, the writ petition is allowed and the order of removal passed against the petitioner is set aside. It is, however, made clear that it shall be open to the appointing authority to pass orders against the petitioner, following the procedure prescribed by law. The petitioner shall be entitled to be paid the honorarium for the period during which she worked. There shall be no order as to costs.

Dt.26.02.2007

L.NARASIMHA REDDY, J

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Note:Furnish C.C. in two days.

(B/o)
GJ

